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ABSTRACT

This report reflects not only the Department of Health, Education and Welfare's accomplishments in civil rights since the passage of the Civil Rights Act of 1964, but also describes the areas encompassed by HEW's current and future civil rights activities. From the early and primary emphasis on school desegregation in the southern and border States, the Office for Civil Rights (OCR) has expanded its program to treat many of the special kinds of discrimination suffered by national origin minorities and women. It is the responsibility of OCR to ensure that HEW-assisted activities are conducted and services are provided without discrimination because of race, color, religion, national origin or sex. OCR turned its attention to hospital and extended care facilities, for example, with the advent of Medicare in 1966. For the most part, such facilities were desegregated by 1967. While desegregation of public school districts has attracted more attention, OCR has also been seeking to eliminate the dual system of higher education, vestiges of which still exist in many southern states. In early 1974 OCR was given enforcement responsibility for Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against physically or mentally handicapped individuals in Federally assisted programs. (Author/JM)

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964--

TEN YEARS LATER

An Anniversary Progress Report

July, 1974

U. S. Department of Health, Education, and Welfare
Office of the Secretary
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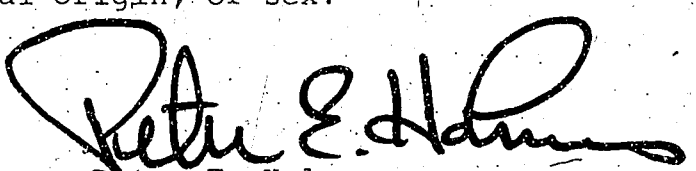
This report is intended to reflect not only HEW's accomplishments in civil rights since the passage of the Civil Rights Act of 1964, but also to describe the areas encompassed by the Department's current and future civil rights activities.

From the early and primary emphasis on school desegregation in the southern and border States, the Office for Civil Rights has expanded its program to treat many of the special kinds of discrimination suffered by national origin minorities and women. It is the responsibility of the Office for Civil Rights to ensure that HEW-assisted activities are conducted and services are provided without discrimination because of race, color, religion, national origin, or sex.



Peter E. Holmes
Director
Office for Civil Rights

Ten years after the signing of the Civil Rights Act of 1964, more than six million of the Nation's 6.8 million black students are in schools with white students.

This is in dramatic contrast to the estimated 3.5 million black students who were moving systematically through the public schools in total racial isolation a decade ago.

The millions of black students whose lives have been directly affected by desegregation are outnumbered by an estimated 8 to 10 million white students who would remain in all-white schools, had it not been for changes effected by the Civil Rights Act, parallel court decisions upholding equal educational opportunity, and the voluntary initiatives of thousands of local school districts.

Few laws have had more impact on more lives. The change has come about, sometimes smoothly, sometimes with lingering disruption of community life, often in the face of rigid grass-roots opposition, heated political debate, and continuing escalation of the legal requirements placed on local school districts by Federal courts.

Phrases like "Integrate Now," "Freedom of Choice" and "Cross-Busing" are a part of the 10-year history.

The Office for Civil Rights in the Department of Health, Education, and Welfare--the agency with primary responsibility for enforcement of Title VI of the Civil Rights Act--often charged school districts with harassment and intimidation of

minority students, while superintendents, their boards, newspaper editorials and sometimes governors and members of Congress accused the enforcing agency itself of outrageous behavior.

Historians will find easy proof that nobody was perfect.

But perhaps they will note the underlying story of the courage of the children and parents who, by choice or happenstance, became the vanguard in a magnificent American movement toward correction of an injustice.

When Title VI was delegated to HEW for enforcement, the job originally went to a nucleus of about 25 people in the Office of Education, in a unit which became the Equal Educational Opportunities Program and later, as the Office for Civil Rights, was reassigned as a part of the Office of the Secretary of Health, Education, and Welfare. That "unit" now has almost 900 positions and a Fiscal Year 1975 budget of $24.3 million, up from $4.8 million in Fiscal 1969.

HEW first used the cutoff of Federal funds as the ultimate enforcement power of Title VI in 1966, terminating aid to a number of school districts that simply preferred to do without the money if it meant desegregation.

Records show that cutoff proceedings were initiated against 634 school districts that were in violation of Title VI and refused to do anything about it. Another 646 school districts in the 17 southern and border States

are under Federal court order to desegregate. Many of these court actions were initiated locally by civil rights organizations. In Louisiana, 61 of the 66 school districts are under court order. In Alabama, court orders have been issued against 112 of the 124 school districts; in Georgia, 119 of 191; in Mississippi, 108 of 150.

In 1964, when the law was passed, it is estimated that about two percent of the black students in the 11-State Old Confederacy were in school with white students. Today, more that 90 percent of the black students in these States are in school with whites on the basis of the last national survey of the schools in the fall of 1972. As recently as 1968, there were still 68 percent of the black students totally isolated in the 11-State South. Today, only 8.7 percent remain isolated. (See Figure 1)

The numbers of students who are totally isolated pinpoint the area of most dramatic change, but are not in themselves an accurate picture of the situation today.

The 1972 survey shows, for example, that nationally 45.2 percent of the black students are still in schools that are 80 percent or more minority. (See Figure 2) In the 11-State South, the number is much lower--only 29.9 percent of the black students are in 80-to-100 percent minority schools.

As the South has abolished its dual school system, insofar as regional identity is concerned, the assumption

is generally made that the problem now is a northern one. The statistics are more explicit, however, and more accurate. The problem now is in the major metropolitan areas--the big cities with heavy black populations and growing black school enrollments. (See Table 1)

On May 17, 1974, the 20th anniversary of the Supreme Court decision in Brown v. Topeka--the forerunner of school desegregation--HEW Secretary Caspar W. Weinberger pointed out that most of the black students still isolated by race are in about 20 northern and southern cities, making further desegregation difficult to achieve because black students so outnumber white students. (See Table 2)

In fact, more than 70 percent of the black students in the Nation still totally isolated by race in 1972 were in:

New York, Los Angeles, Chicago, Philadelphia, Detroit, Miami, Baltimore, Dallas, Cleveland, Washington, D.C., St. Louis, New Orleans, Atlanta, Newark, East Baton Rouge, Birmingham, Charleston, S.C., Shreveport, and Gary.

In Atlanta, nearly 8 out of 10 students in the public schools are black; in Baltimore, Detroit and St. Louis, nearly 7 out of 10; in Washington, D.C., 9 out of 10; in Chicago and Cleveland, nearly 6 out of 10.

The options for desegregation in such districts are few. A school district can "pair" neighboring schools, if one is mostly minority and the other mostly white. By designating one school to serve grades 1-3, and the other

to serve grades 4-6, desegregation can be achieved. Districts can and have paired schools across the city from each other, widening the base of what can be accomplished numerically and adding to the amount of busing required. Other options include redrawing of school zone boundaries and careful planning of new construction to increase desegregation.

The Richmond, Virginia, school district sought to desegregate by cross-busing with neighboring school districts but the Supreme Court did not uphold the plan. A somewhat similar effort is being made by the Detroit school system, in a case now before the United States Supreme Court.

More than numerical desegregation is involved in Title VI.

The major focal point of enforcement has passed the numerical stage, but other vestiges of discrimination remain. Today, the Office for Civil Rights is moving further into the question of equal delivery of services, affecting the educational opportunities of Black, Spanish-surnamed, Asian American, American Indian and other minorities.

Funds have been made available to school districts to help them deal with the problems involved in reducing racial isolation. These grants were made under the Emergency School Assistance Program, begun in 1971, and

the Emergency School Aid Act (Title VII of the Education Amendments of 1972). Adding on the earlier grants made under Title IV of the Civil Rights Act, HEW's Office of Education reports that more than $800 million has flowed in the past 10 years to help school districts desegregate. These programs give added meaning to the enforcement powers that go with Title VI and are helping to end faculty segregation, discriminatory ability grouping practices that are sometimes used improperly to segregate students by classroom, and uneven discipline policy that discriminates against minorities.

The Emergency School Aid Act goes beyond providing financial aid to meet the special needs growing out of desegregation. It is designed to encourage the voluntary elimination, reduction, or prevention of minority group isolation, and to aid school children in overcoming educational disadvantages. It includes funds for metropolitan area projects, bilingual projects, educational television projects, and community group participation.

ESAA funds can combat discrimination through funding of various hiring and training efforts for staff, development of new instructional materials and techniques, additional remedial help and guidance for students. To qualify, the district must meet requirements for faculty desegregation, elimination of discriminatory tracking or ability grouping, disproportionate assignment of minority

students to classes for the retarded, and inadequate facilities and materials.

In 1973, for example, two school districts in one State reassigned 9,000 students who had been placed in educationally unjustifiable ability groupings that resulted in classroom segregation. Black principals who had been demoted when schools desegregated are being restored to their positions; black teachers who had lost jobs as schools desegregated were rehired. In one five-state region of HEW, school districts made commitments to hire 500 black teachers to correct discriminatory attrition during the years of desegregation.

While development of a case does not depend on proof of actual intent to discriminate on the part of school officials, it does call for evidence that different disciplinary policies between non-minority and minority students have a discriminatory effect. Collection of such evidence requires thorough, on-site investigation by experienced, trained staff.

For the past two years OCR has been collecting data on so-called "pushouts," or dropouts. Most of the information comes from the National School Survey of Public Elementary and Secondary Schools. The Survey obtained data on both expulsions and suspensions in 1973 and will do so again in 1974. The purpose of the data is primarily to assist the Office and its regional staffs in identifying the school

districts where it appears that disciplinary measures may be discriminatory, so compliance reviews can be undertaken.

As the potential offenders are identified statistically they will become the subject of full-scale investigations that will lead either to satisfactory corrective action or legal proceedings.

Compliance efforts in the student discipline area have been intensified through the process involved in determining the eligibility of districts for funding under the ESAA.

On May 25, 1970, the Office for Civil Rights issued its first major policy statement dealing with discriminatory denial of educational services to national origin minority students. Until that time, the focus of civil rights enforcement had been almost entirely on Southern desegregation efforts primarily involving the rights of black students.

The May 25th policy statement, circulated to all school districts with more than five percent national origin minority enrollment, called for assurance of equal educational opportunity to children deficient in English language skills.

Reviews were conducted in a number of school districts and plans for corrective action were negotiated.

Major new impetus was given to the policy when it was cited by the U. S. Supreme Court in the case of Lau v. Nichols on January 21, 1974, in its finding that:

The failure of the San Francisco school system to provide English language instruction to approximately 1,800 students of Chinese ancestry who do not speak English denies them a meaningful opportunity to participate in the public educational program and thus violates Sec. 601 of the Civil Rights Act of 1964, which bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving federal financial assistance," and the implementing regulations of the Department of Health, Education, and Welfare. Pp. 2-6. 483 F. 2d 791, reversed.

As of the fall of 1972, a total of 2,414,179 Spanish-surnamed, 232,766 American Indian, and 233,190 Asian American children were enrolled in the nation's public schools. Based on its pilot reviews in smaller districts, the Office for Civil Rights has undertaken a review to determine whether there is equal delivery of educational services to minority students in the New York City Public Schools. The review will include compliance inquiries directed to services being provided in Spanish and Asian languages, as well as to Italian, Greek and French speaking minorities.

The New York City review is far different from that of the early-day review of the dual school system, which primarily entailed a racial count of the students, to what extent they were segregated, and why. For the review in New York, the Office for Civil Rights will determine:

- whether comparability exists between racially/ethnically identifiable schools or districts with respect to instructional expenditures, facilities, and other services.

- whether educational services being provided to children place them in educational and cultural environments which do not meet their linguistic needs.
- whether the effect of assigning children to ability groups or tracks, special educational programs, or programs for gifted children is to create and maintain racially or ethnically isolated environments within the schools so as to place minority children at a disadvantage.
- whether children are treated differently on the basis of their race, color or national origin in the conduct of school-sponsored extra-curricular activities, counseling or disciplinary procedures; and whether day care and Head Start programs are free of discrimination.

The type of review undertaken in New York City is expected to be expanded to Chicago, Houston, Los Angeles and Philadelphia. In 1974 the Office for Civil rights plans to assure compliance with regard to equal delivery of services in more than 300 other districts by enlisting State agency leadership in development of voluntary plans, and in monitoring their progress. These are districts with significant numbers of national origin minorities. The districts have been selected on the basis of information submitted by school authorities.

In 1973, the Office for Civil Rights began to take a closer look at still another area of education which has had little or no attention from the agency in the past--the administration and operation of vocational education at the State and local level. State agencies and school plants were visited as part of a pilot study in Pennsylvania, Georgia, North Carolina, Arkansas, and California, not specifically to find Title VI violations, but simply to learn more about the field and how it relates to civil rights. Survey forms were sent also to 1500 area vocational schools. From preliminary studies, it appears that problems based on the race of the students in these schools will involve fewer than 10 percent of them--with about 100 schools requiring on-site investigation. It was also found, however, that a number of the schools have all-minority or predominantly-minority enrollments although the population centers they serve have large numbers of non-minorities. The study showed as well a significant lack of minority instructors in vocational education generally.

HEALTH AND SOCIAL SERVICES

The Office for Civil Rights turned its attention to hospitals and extended care facilities with the advent of Medicare in 1966. For the most part, these health facilities were desegregated by 1967. That included the desegregation of staff and patient assignments as well as patient admissions.

Because all recipients of Federal funds must comply with Title VI, the State welfare agencies also fall under HEW jurisdiction. Title VI applies to approximately 250 State agencies and their thousands of local counterparts, facilities and vendors administering the Department's grant-in-aid programs. The Office for Civil Rights has compliance responsibility over rehabilitation centers, workshops for the handicapped, child care institutions, and approximately 7,000 hospitals, 5,000 extended care facilities, and 2,200 home health agencies participating in the Medicare program. Today the toughest responsibility State agencies face under Title VI is to provide equal services regardless of the national origin of their clients, which may, in many parts of the country where a language barrier is also a barrier to social services, require the hiring of bilingual caseworkers and medical personnel.

In November, 1973, the Office for Civil Rights launched a joint effort with the California Department of Social Welfare to improve the delivery of services to non-English-speaking minority clients. Coming at the end of a two year review of the activities of county welfare agencies, the cooperative venture will result in the hiring of more bilingual staff workers and in a more effective method of caseload assignment to ensure that the social service needs of national origin minorities are met.

HIGHER EDUCATION

While desegregation of public school districts affects more people and consequently attracts more attention, the Office for Civil Rights has also been seeking to eliminate the dual system of higher education, vestiges of which still exist in many southern States. A 1973 court decision required HEW to obtain submission by ten States of plans to desegregate their public institutions of higher education. The States named in the action were: Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, Pennsylvania, and Virginia.

OCR received preliminary plans from nine of the States in November, 1973. The tenth, Louisiana, declined to submit a plan, and its file was referred to the Department of Justice and a desegregation suit has been filed. The first set of plans was rejected for lack of specific timetables and goals for changing the enrollment patterns. Plans were resubmitted in early June, 1974. On June 21, plans for eight of the States were accepted. The Mississippi plan, which failed to include 16 junior colleges, was referred to the Department of Justice for legal proceedings.

The plans involve minority participation in careful statewide planning and coordinated approached so that allocations of financial resources, placement of new or specialized course offerings, and positive student recruitment efforts can have a significant impact on desegregation.

Predominately black institutions are to be able to compete for and attract students regardless of race. Predominately white institutions, through greater efforts in supportive and counseling services, will be able to compete for and attract greater numbers of black students.

A higher education survey taken in the fall of 1972 shows that 454,849 black students were enrolled in undergraduate institutions, representing 8.5 percent of the 5,344,525 total enrollment. The same survey showed 29,843 or .5 percent of the enrollment were American Indian; 49,409 or .9 percent are Asian American, and 119,979 or 2.2 percent are Spanish-surnamed. A total of 47 percent of the black students in undergraduate schools were in 146 majority black institutions.

Responsibility for enforcement of several additional laws has also been assigned to the Office for Civil Rights.

THE HANDICAPPED

In early 1974 OCR was given enforcement responsibility for Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against physically or mentally handicapped individuals in Federally assisted programs.

SEX DISCRIMINATION

Two laws protect students and staff from discrimination because of sex much as Title VI protects them from discrimination because of race, color or national origin.

Sex discrimination in admission and employment in a health personnel training program is illegal if that program

is receiving assistance under Title VII or Title VIII of the Public Health Service Act (as amended by the Comprehensive Health Manpower and the Nurse Training Act of 1971). Mentioned specifically in the law are schools of medicine, optometry, pharmacy, osteopathy, dentistry, veterinary medicine, podiatry, public health, allied health personnel and nursing.

Title IX of the Education Amendments of 1972 applies, with certain exceptions, to all educational institutions which receive Federal assistance. It prohibits discrimination on the basis of sex in educational programs or activities from kindergarten through post graduate training, and it applies both to students and employees of an institution. Admissions to the following institutions are exempt although all other aspects of the institutions are covered:

- Private undergraduate schools
- Elementary and secondary schools other than vocational schools
- Single-sex public undergraduate institutions which traditionally and continually from their founding have been single-sex

An institution whose admissions are not exempt from Title IX, but which was single-sex between 1965 and 1972 may have up to June, 1979 to convert to nondiscriminatory admissions.

Religious institutions are exempt to the extent covered by their religious tenets, and military schools are totally exempt if their primary purpose is to train individuals for U. S. military service or the merchant marine.

EMPLOYMENT--EXECUTIVE ORDER 11246

While the authority of the Office for Civil Rights to enforce nondiscrimination in employment in Federally funded projects was limited by Title VI itself, its authority under the Executive Order is comprehensive.

Executive Order 11246 (as amended by Executive Order 11375) prohibits discrimination in employment on the basis of religion and sex as well as on the grounds of race, color, or national origin. Coverage extends to a contractor's entire workforce, whether or not working in Federally funded positions, except for construction workforces in certain cities, which are subject to other regulations.

Each public or private institution receiving a Federal contract of $50,000 or more must have on file a written affirmative action plan and submit it to the contracting agency on request. An institution receiving more than $10,000 but less than $50,000 in Federal contracts must have an affirmative action program but need not have a written plan.

The affirmative action requirement of the Executive Order is credited with helping to change discriminatory employment practices in many of the Nation's institutions of higher education. A college which calls itself "An Equal Opportunity-Affirmative Action Employer" in an advertisement for faculty pledges to consider all applicants on the basis of their qualifications, without excluding anyone because of race, color, religion, national origin or sex.

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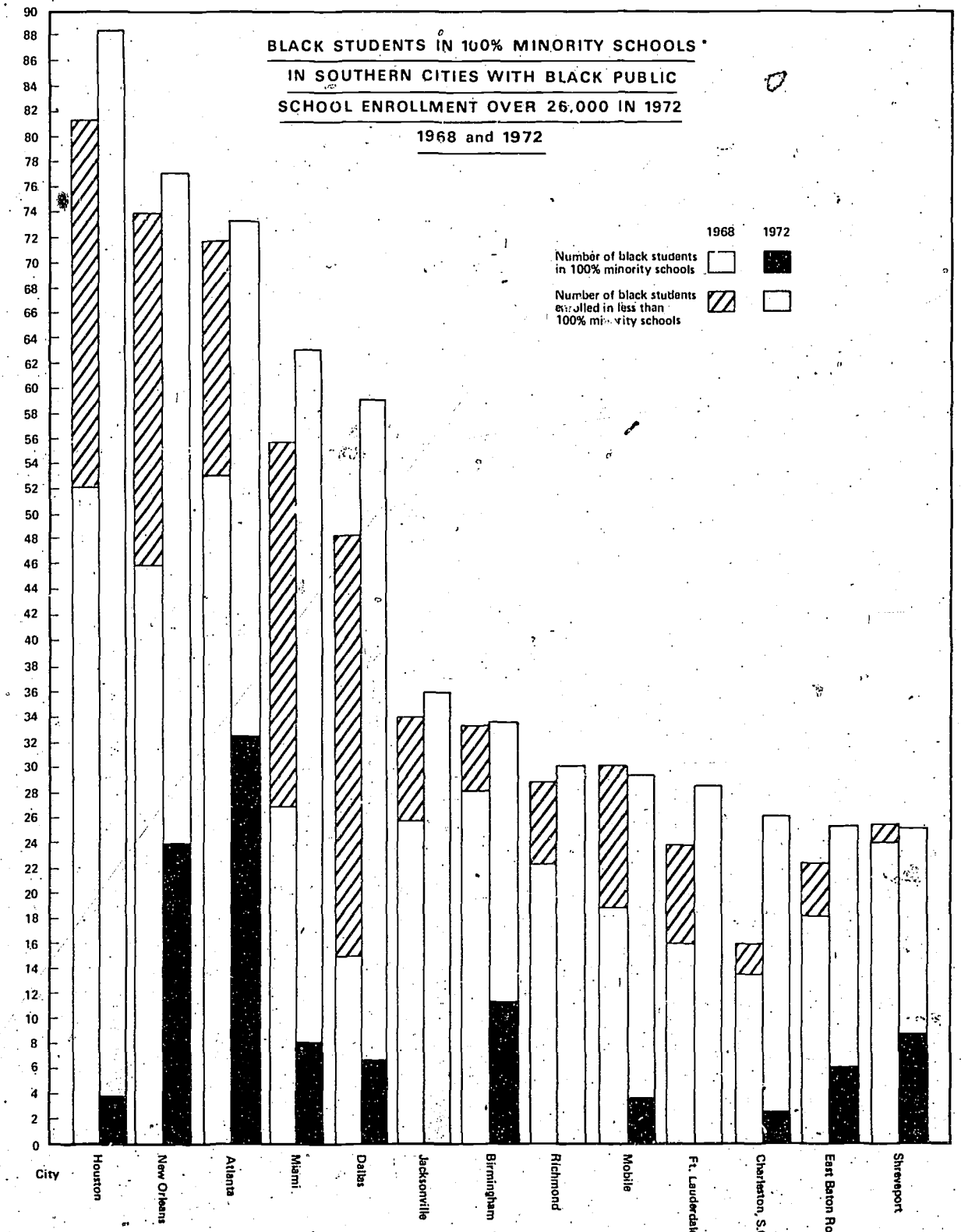
FIGURE 1



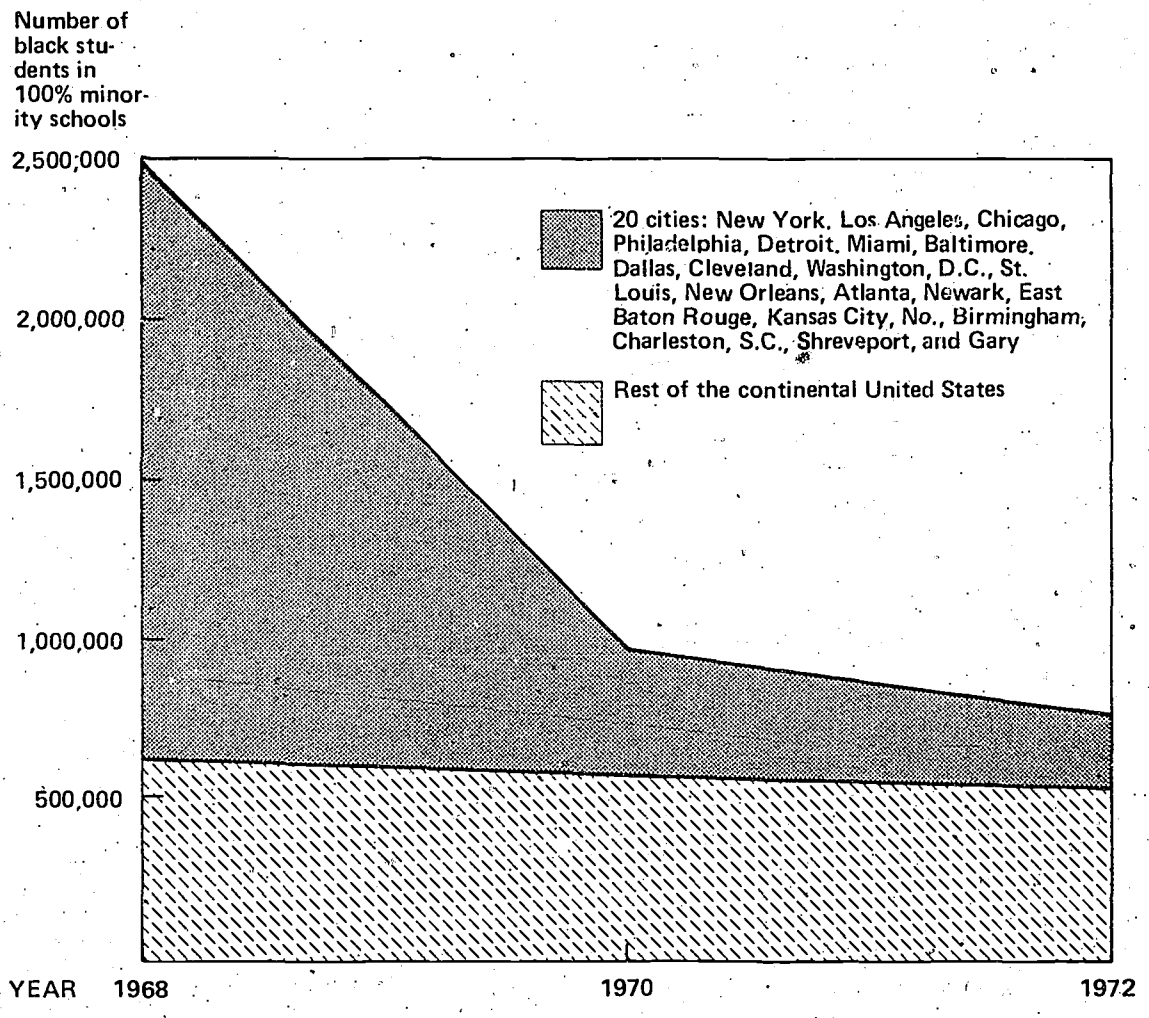
* A minority student is one who is black, Spanish-surnamed American, Asian American, or American Indian

Office for Civil Rights
U.S. Department of Health, Education, and Welfare

FIGURE 2

BLACK STUDENTS IN 100% MINORITY SCHOOLS *

1968-1972



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Office for Civil Rights
U.S. Department of Health, Education, and Welfare

TABLE 1

Twenty cities have one-third of the total U. S. black public school enrollment, and the black children attending schools in these cities which are 80-100% minority* comprise more than 60% of the black children who are enrolled in such schools nationwide, according to a 1972 public school survey.

These cities are, in order of descending size of public school enrollment: New York, Los Angeles, Chicago, Philadelphia, Detroit, Miami, Houston, Baltimore, Dallas, Cleveland, Washington, D.C., Ft. Lauderdale, Milwaukee, St. Louis, New Orleans, Atlanta, Newark, Oakland, Cal., Kansas City, Mo., Birmingham, and Gary.

Year	1968	1970	1972
U. S. black public school enrollment and % of total U. S. public school enrollment	6,282,173 14.5	6,712,789 14.9	6,796,238 15.2
Black students in 20 cities; % of national total	2,131,830 33.9	2,224,737 33.1	2,256,586 33.2
Black students in 80-100% minority schools in Nation, number and %	4,274,461 68.0	3,314,629 49.4	3,072,581 45.2
Black students in 80-100% minority schools in 20 cities, number and %; as % of national figure	1,737,866 81.5 40.7	1,819,543 81.8 54.9	1,848,836 81.9 60.2

* A minority student is one who is black, Spanish-surnamed, Asian American, or American Indian.

TABLE 2

Twenty cities have more than 31% of the black public public school enrollment and more than 71% of the black students in the ation who are isolated in 100% minority schools,* according to the results of a 1972 school survey. In the continental United States as a whole, 11.2% of the black students attend 100% minority schools; in these cities, 25.1% of the black students attend 100% minority schools.

These cities are, in order of descending size of public school enrollment: New York, Los Angeles, Chicago, Philadelphia, Detroit, Miami, Baltimore, Dallas, Cleveland, Washington, D.C., St. Louis, New Orleans, Atlanta, Newark, East Baton Rouge, Kansas City, Mo., Birmingham, Charleston, S.C., Shreveport, and Gary.

Year	1968	1970	1972
U. S. black public school enrollment and % of total U. S. public school enrollment	6,282,173 14.5	6,712,789 14.9	6,796,238 15.2
Black students in 20 cities; % of national total	1,725,507 27.5	2,006,959 29.6	2,169,748 31.9
Black students in 100% minority schools in Nation, number and %	2,493,398 39.7	942,801 14.0	759,758 11.2
Black students in 100% minority schools in 20 cities, number and %; as % of national figure	630,797 36.6 25.3	550,579 27.4 58.5	544,466 25.1 71.7

*A minority student is one who is black, Spanish-surnamed, Asian American, or American Indian.

Public Law 88-352
88th Congress, H. R. 7152
July 2, 1964

TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

SEC. 601. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Rules governing grants, loans, and contracts.

SEC. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken.

Approval by President.

No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means.

Termination.

In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

Judicial review.

SEC. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

60 Stat. 243.
5 USC 1009.

SEC. 604. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 605. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.